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Compilation on Montenegro

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies[1–2]

2. As regards the relevant recommendation from the second cycle of the universal periodic review,[3] several Committees welcomed the ratification by Montenegro of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure,[4] the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights[5] and the Convention on the Reduction of Statelessness.[6]

3. As regards the relevant recommendation from the second cycle of the universal periodic review,[7] the Committee against Torture and the Committee on the Elimination of Discrimination against Women welcomed the ratification by Montenegro of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.[8]

4. As regards the relevant recommendations from the second cycle of the universal periodic review,[9] the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the Committee against Torture encouraged Montenegro to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.[10]

5. The Committee on the Rights of Persons with Disabilities encouraged Montenegro to ratify and implement as soon as possible the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.[11]

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6. Montenegro submitted a mid-term review on the follow-up to the recommendations made during the second cycle of the universal periodic review held in 2013.[12]

7. Montenegro contributed financially to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in 2013 and 2016.[13]

III. National human rights framework[14]

8. While noting the adoption, in 2014, of the Law on Amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro, four Committees expressed concern at the institution's reported lack of capacity to implement its broad mandate in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). They recommended that Montenegro strengthen the institution in accordance with the Paris Principles and provide it with adequate human and financial resources, considering, in particular, its role as the national preventive mechanism against torture and the institutional protective mechanism against discrimination.[15]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[16]

9. The Committee on the Elimination of Discrimination against Women welcomed the different educational measures taken by Montenegro to counter sexist stereotypes, but was concerned that patriarchal attitudes regarding the roles of women and men continued to be deeply entrenched within society, and recommended that a comprehensive strategy to eliminate them be put in place.[17]

10. The Committee against Torture and the Committee on Economic, Social and Cultural Rights noted positive legislative developments in the field of non-discrimination, but were concerned that members of ethnic minorities, in particular persons of Roma, Ashkali and Egyptian origin and those of other marginalized groups, continued to face discrimination.[18]

11. While noting various legislative and administrative measures that had been adopted to protect the rights of lesbian, gay, bisexual and transgender persons, the Committee against Torture, the Human Rights Committee and the Committee on the Elimination of Discrimination against Women remained concerned at continuing reports of violence and discrimination against such persons, and recommended that Montenegro intensify its efforts to combat stereotypes and prejudice against them.[19] The Committee on the Elimination of Discrimination against Women was concerned about the legal requirement for transgender persons to undergo a surgical intervention in order to obtain legal recognition, and recommended removing such a requirement.[20]

B. Civil and political rights

1. Right to life, liberty and security of person[21]

12. The Committee against Torture recommended that Montenegro adopt a definition of torture covering all the elements contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and ensure that penalties for torture were commensurate with the gravity of that crime, that the absolute prohibition of torture was non-derogable and that acts amounting to torture were not subject to any statute of limitations.[22]

13. The Working Group on Enforced or Involuntary Disappearances and the Committee on Enforced Disappearances recommended that Montenegro establish enforced disappearance as a separate offence with the appropriate penalties.[23]

14. The Committee on Enforced Disappearances welcomed the amendment of the Code of Criminal Procedure, which stipulated that persons deprived of their liberty were entitled to have a person of their choice "immediately" informed of their situation. Nevertheless, it echoed the concerns expressed by the Committee against Torture that, in practice, persons deprived of their liberty were not systematically afforded all the fundamental legal safeguards from the very outset of their deprivation of liberty.[24]

15. The Committee against Torture remained concerned at consistent reports about physical ill-treatment of detainees by the police during questioning. It recommended that Montenegro ensure that allegations of torture, ill-treatment or excessive use of force by the police were promptly, impartially and effectively investigated by an independent body and that persons under investigation were immediately suspended from their duties and remained so throughout the investigation.[25] The Committee also recommended that Montenegro intensify its efforts to provide human rights training programmes for all officials involved in the custody, interrogation or treatment of individuals subject to any form of arrest, detention or imprisonment.[26]

16. While noting the commitment of Montenegro to improve conditions of detention, the Committee against Torture remained concerned at the conditions in detention facilities, such as overcrowding, inadequate access to health care and the lack of meaningful activities and rehabilitation programmes.[27] The Committee on the Elimination of Discrimination against Women noted with concern that there was only one prison for women in Montenegro, where women in pretrial detention were not separated from convicted women, and that the long distances to the prison deprived many incarcerated women of regular contact with their children or other members of their family.[28]

17. The Committee on the Rights of Persons with Disabilities noted with concern that the current approach to disability, which was based on a medical model, provided for the involuntary hospitalization and forced institutionalization of persons with intellectual and/or psychosocial disabilities and that, according to the Law on the Protection and Exercise of the Rights of the Mentally Ill, police officers were obliged to deprive a person of liberty based only on the suspicion of "mental illness".[29]

18. The Committee against Torture and the Human Rights Committee recommended that Montenegro ensure that all acts of violence against lesbian, gay, bisexual and transgender persons were promptly, effectively and impartially investigated and prosecuted, that perpetrators were brought to justice and that victims were provided with redress.[30]

2. Administration of justice, including impunity, and the rule of law[31]

19. The United Nations country team noted the progress of Montenegro regarding the legislative and policy measures that it had taken to strengthen the independence, impartiality and efficiency of the judiciary. It observed that the greatest challenge was the effective implementation of legislation and called for continuous investment in strengthening the professional capacity of judicial officials. It also referred to the limited effectiveness of existing disciplinary mechanisms for judges and prosecutors.[32]

20. The Committee against Torture recommended that Montenegro intensify its efforts to ensure appropriate access to the legal system for vulnerable persons and groups, in particular, by providing adequate resources for the effective implementation of the Law on Legal Aid and extending the application of free legal assistance to include administrative proceedings.[33]

21. The Committee on the Elimination of Racial Discrimination was concerned about the small number of cases of racial discrimination before the courts and the low number of convictions in such cases. It recommended that Montenegro conduct broad awareness-raising campaigns on how to report and bring before the courts such cases and strengthen the training of judges, prosecutors, lawyers and police officers on how to identify and sanction racially motivated offences.[34]

22. The Committee on Enforced Disappearances observed that the fate and whereabouts of 61 of the 72 individuals reported missing in Montenegro as a result of the conflict in the former Yugoslavia remained unknown, and noted with satisfaction the establishment of a new commission on missing persons, in 2015. It recommended that Montenegro enhance its cooperation with other parties in the region, including through cooperation agreements with other commissions on missing persons, in order to urgently speed up the identification process.[35]

23. The Working Group on Enforced or Involuntary Disappearances noted that most of the perpetrators of war crimes continued to enjoy impunity and that there had not been any convictions in recent years. It noted with concern that no one had been convicted on the basis of command responsibility and that, of the few direct perpetrators who had been convicted, some had received sentences shorter than the statutory minimum, based on mitigating factors that would not merit such treatment in the practice of the International Tribunal for the Former Yugoslavia.[36] The Committee on Enforced Disappearances welcomed the establishment of specialized bodies to investigate and prosecute war crimes, including a new special prosecutor's office and a special department for war crimes that had been established within the Higher Court of Podgorica. It recommended that Montenegro provide them with adequate training and sufficient personnel and technical and financial resources.[37]

24. The Committee against Torture expressed concern that the majority of victims of war crimes had yet to be afforded the right to reparation.[38]

3. Fundamental freedoms and the right to participate in public and political life[39]

25. The Committee on the Elimination of Discrimination against Women welcomed the adoption of amendments to the Electoral Law (2014), which improved women's political participation.[40] It nevertheless noted with concern that women continued to be underrepresented in public and political life, and recommended that Montenegro create an enabling environment for women's participation and review the quota of 30 per cent in the Electoral Law to ensure that, in each group of three candidates, at least one candidate was a woman in the electoral lists.[41] The United Nations country team made similar recommendations.[42]

26. The Committee on the Rights of Persons with Disabilities noted that persons whose legal capacity was restricted were deprived of the right to vote and the right to stand for election and that certain physical and information barriers remained in the voting process, and recommended amending the Electoral Law and the rules of procedures in that regard.[43]

27. The Committee on the Elimination of Discrimination against Women was concerned about the recent adoption of restrictive legislation on the financing of non-governmental organizations, which hampered their establishment and activities, and recommended that it be amended.[44]

28. The Human Rights Committee and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression were concerned by multiple reports of intimidation and violence against journalists and media outlets, in particular against those investigating issues such as organized crime or alleged links between organized crime and the authorities. They recommended that Montenegro investigate all such cases and bring those responsible to justice.[45]

29. The Special Rapporteur on freedom of expression observed that, although libel and defamation had been decriminalized, the fines levied by courts were still high on occasion, and civil defamation lawsuits seemed to disproportionately target some sectors of the media considered to be critical of the authorities.[46] He was also very disturbed by reports on the use of inflammatory statements by some authorities and political leaders against journalists and the media that had been critical of them, and recommended that the authorities should value the work of investigative journalists in their statements and refrain from attacking them.[47]

30. The Special Rapporteur on freedom of expression noted that attempts by the lesbian, gay, bisexual and transgender community to conduct peaceful demonstrations had met with

violence, and recommended that Montenegro fully implement national norms regarding the prohibition of discrimination on all grounds and investigate acts of aggression against the lesbian, gay, bisexual and transgender community.[49]

31. The Committee on Enforced Disappearances commended Montenegro on the entry into force of the Law on Free Access to Information, in 2013.[50] The Special Rapporteur on freedom of expression recommended that Montenegro secure adequate financial and human resources for the Law's supervisory body so that it could fully implement its mandate with autonomy and independence.[51]

4. Prohibition of all forms of slavery[52]

32. The Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women noted the measures taken by Montenegro to combat trafficking in persons, but remained concerned at the low number of prosecutions of and the lenient sentences imposed on traffickers.[53]

33. The Human Rights Committee recommended that Montenegro vigorously pursue its public policy to combat trafficking, in particular of Roma, Ashkali and Egyptian girls and women, including at the regional level and in cooperation with neighbouring countries; train its police officers, border personnel, judges, lawyers and other relevant personnel; and ensure that all individuals responsible for trafficking in persons were prosecuted and punished.[54] The Committee on the Elimination of Discrimination against Women recommended that Montenegro ensure that all victims of trafficking had free and immediate access to shelters, medical care, psychosocial counselling, legal assistance and specialized rehabilitation services, as well as temporary residence permits, irrespective of their willingness or ability to cooperate with the prosecution authorities.[55]

5. Right to privacy and family life[56]

34. The Committee on the Rights of Persons with Disabilities noted with grave concern that national legislation restricted the right of persons with disabilities under guardianship to marry as well as their parental rights, and recommended that Montenegro speedily harmonize its legislation with the Convention on the Rights of Persons with Disabilities.[57]

35. The Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee were concerned at the persistence of child and/or forced marriages within the Roma, Ashkali and Egyptian communities. They recommended that Montenegro raise awareness of the prohibition and the harmful impact of those practices and strictly enforce the prohibition of forced cohabitation or child and/or forced marriage, in particular in cases of further sexual exploitation of the victim.[58]

36. The Committee on the Elimination of Discrimination against Women noted with concern that judges rarely took domestic violence against the mother into account when deciding child custody cases. It recommended that Montenegro implement adequate mandatory training of judicial officials in that regard and ensure the systematic exchange of information between the competent misdemeanour courts and family courts on existing or past protection measures.[59]

37. The same Committee recommended that Montenegro revise the definition of matrimonial property, so that marital rights would include pension rights and other work-related benefits. It also recommended that Montenegro abolish the possibility of unequal distribution of joint property upon the dissolution of marriage and any requirement for women to prove their contribution to the joint property regime, and guarantee that women living in de facto relationships had economic protection.[60]

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work[41]

38. While noting the measures taken to combat unemployment, the Committee on Economic, Social and Cultural Rights remained concerned at the high rate of unemployment, particularly among young people and in the northern region. It recommended that Montenegro implement an effective employment policy that included retraining, local employment initiatives, the granting of loans to promote entrepreneurship and placement initiatives.[42]

39. The Committee on the Elimination of Racial Discrimination was concerned at the high rate of unemployment of persons of Roma, Ashkali and Egyptian origin, owing to their lack of qualifications and high levels of illiteracy, but also to direct and indirect discrimination. It recommended that Montenegro strengthen efforts to increase the employability of those persons through adult literacy and vocational training programmes, and enhance affirmative action.[43] The United Nations country team made similar recommendations.[44]

40. The Committee on the Elimination of Discrimination against Women noted with concern the disproportionately high unemployment rate among women, in particular women belonging to minority groups. It recommended that Montenegro create more opportunities for women to access formal employment; adopt measures to close the gender wage gap; develop a confidential system for filing complaints related to sex- or gender-based discrimination in employment; and promote the equal sharing of domestic and family responsibilities between men and women.[45]

41. The Committee on the Rights of Persons with Disabilities recommended that Montenegro further promote the employment of persons with disabilities, with a particular emphasis on women, in close consultation with them and their organizations. It also recommended that Montenegro introduce legislation for sanctions against employers who fail to provide reasonable accommodation in the workplace.[46]

42. The Committee on Economic, Social and Cultural Rights recommended that Montenegro increase the amount of the national minimum wage to a level sufficient to provide all workers and their families with a decent standard of living and periodically review it.[47]

43. The Human Rights Committee was concerned at the persistence of child labour, particularly among persons of Roma, Ashkali and Egyptian origin, who were often engaged in harmful and exploitative labour, particularly in begging.[48] The Committee on Economic, Social and Cultural Rights urged Montenegro to intensify its efforts to combat child labour, including through systematic and effective labour inspections, and by investigating, prosecuting and sanctioning those responsible and providing victims with rehabilitation and assistance.[49]

44. The Committee on Economic, Social and Cultural Rights expressed concern at reports of discriminatory acts against trade union representatives.[50] The International Labour Organization Committee of Experts on the Application of Conventions and Recommendations requested that Montenegro amend its legislation so as to ensure sufficiently dissuasive sanctions for acts of anti-union discrimination against union members and officials on the grounds of trade union membership or legitimate trade union activities.[51]

2. Right to social security

45. While welcoming the adoption, in May 2013, of the Law on Social and Child Protection, the Committee on Economic, Social and Cultural Rights was concerned at the lack of capacity of State institutions to implement the Law effectively. It also noted with concern that social assistance benefits, including for unemployed persons, older persons and persons with disabilities, were insufficient to ensure an adequate standard of living for the persons concerned and their families.[52]

66. The Committee on the Elimination of Discrimination against Women recommended that Montenegro establish a fund to support all women experiencing difficulties re-entering the workforce after leaving their formal employment to benefit from the annulled amendments to the Law on Social and Child Protection, in 2015, which promised lifelong benefits to mothers with three or more children, therefore creating an incentive for them to leave the formal labour market.[71]

67. The Committee recommended that Montenegro adopt a gender-responsive social protection floor to ensure that all rural women had access to essential health care, childcare facilities and income security. It also recommended that Montenegro ensure that rural women engaged in unpaid work or in the informal sector had access to non-contributory social protection schemes.[72]

3. Right to an adequate standard of living[73]

68. The Committee on Economic, Social and Cultural Rights was concerned at the increasing percentage of the population living below the national absolute poverty line and the prevalence of regional disparities in the enjoyment of economic, social and cultural rights. It called upon Montenegro to strengthen efforts to combat poverty and social exclusion, particularly in the northern region, and to develop an evaluation mechanism to assess the impact of the measures taken.[74] The Committee also recommended that Montenegro expand the availability and quality of social housing for homeless persons and low-income families.[75]

69. The Committee on the Elimination of Racial Discrimination was seriously concerned that persons of Roma, Ashkali and Egyptian origin who were "internally displaced" from Kosovo[*] continued to live in deplorable conditions in the Konik camp near Podgorica. It recommended that Montenegro take urgent measures to improve the living conditions in the Konik camp and implement a sustainable strategy aimed at its prompt closure, foster the local integration of persons of Roma, Ashkali and Egyptian origin in communities throughout the country and ensure that they were provided with adequate living and housing conditions.[76] As regards the relevant recommendation from the second cycle of the universal periodic review,[77] the Office of the United Nations High Commissioner for Refugees (UNHCR) noted the efforts made by Montenegro under the Regional Housing Programme and reported that six housing projects had been approved by the Assembly of Donors for Montenegro and that they were at different stages of implementation.[78] The United Nations country team observed that, despite those efforts, 419 refugee families would still remain without a durable housing solution, and recommended that Montenegro continue its efforts to secure a sustainable housing solution for them.[79]

4. Right to health[80]

70. The Committee on Economic, Social and Cultural Rights expressed concern at reports of the low quality of public health-care services, informal payments provided by patients to health-care practitioners, insufficient oversight of public procurement in the health-care sector, and obstacles faced by persons of Roma, Ashkali and Egyptian origin who did not have the legal status to effectively access health-care services.[81]

71. The Committee on the Elimination of Discrimination against Women recommended that Montenegro regularly monitor and significantly improve hygiene conditions, access to pain relief, respect for privacy and patients' involvement in decisions on maternity wards; make modern forms of contraception available to all women and girls; and raise awareness of how to prevent unwanted pregnancies and sexually transmitted diseases, including HIV/AIDS.[82] It also recommended that Montenegro ensure the integration of mandatory, age-appropriate sex education, including education on sexual and reproductive health and rights, into the school curricula.[83]

[*] All references to Kosovo in the present document should be understood to be in the context of Security Council resolution 1244 (1999).

52. The same Committee noted with concern the prevalence of a preference for sons in families and within society, as reflected by the relatively high number of sex-selective abortions, and recommended that Montenegro strictly implement the prohibition of such abortions and establish services, including helplines for women who were pressured into undergoing such abortions.[85]

53. The Committee on Economic, Social and Cultural Rights was concerned that persons in need of mental health care but not requiring hospitalization were nevertheless placed in psychiatric hospitals due to an absence of alternatives.[86]

5. Right to education[87]

54. The United Nations Educational, Scientific and Cultural Organization (UNESCO) noted the policy actions that had been taken by Montenegro since 2013 to improve the situation of education. In that regard, UNESCO commended the adoption of strategies specific to each level of education and other strategies regarding inclusive education and equal access of minorities. It noted that the challenge that remained was to successfully implement those strategies and their translation into concrete and effective measures.[88] The United Nations country team reported that the overall quality of the education system remained an issue and that, according to the 2015 report of the Organization for Economic Cooperation and Development on its Programme for International Student Assessment, approximately 50 per cent of 15-year-olds were below the basic literacy levels in each of the tested areas.[89]

55. UNESCO noted that the full inclusion of Roma in the education system, although improved, remained a challenge and recommended allocating an appropriate budget to ensure the full implementation of the Strategy for Social Inclusion of Roma and Egyptians in Montenegro.[90] The Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Racial Discrimination expressed concern at the reports of low rates of enrolment, low levels of school attendance, high drop-out rates and low educational attainment among children of Roma, Ashkali and Egyptian origin.[91]

56. UNESCO noted the action plan for achieving gender equality (2013-2017) and indicated that Montenegro should be encouraged to pursue its efforts towards gender equality in education.[92] The Committee on the Elimination of Discrimination against Women recommended that Montenegro conduct capacity-building programmes for teachers with a view to changing existing stereotypical attitudes about the role of women and men in the family and society, and eliminate traditional stereotypes and structural barriers that could deter girls from enrolling in traditionally male-dominated fields of study.[93]

57. The United Nations country team noted the policy efforts of Montenegro that had resulted in an increase of children with disabilities accessing education, but observed that pedagogical quality was still low and that a significant number of children with disabilities remained outside the formal education system.[94] The Committee on the Rights of Persons with Disabilities recommended that Montenegro adopt and implement a coherent strategy and action plan with clear time frames, indicators and evaluation benchmarks on inclusive and quality education in the mainstream education system; progressively improve the accessibility of mainstream schools and tertiary education; and ensure mandatory pre- and in-service training for all teachers and other education personnel on inclusive quality education.[95]

D. Rights of specific persons or groups

1. Women[96]

58. The Committee on the Elimination of Discrimination against Women welcomed the solid legislative framework of Montenegro to eliminate discrimination against women, but noted with concern the limited impact of the legislation and the low number of complaints about sex- or gender-based discrimination.[97]

59. The Committee on the Elimination of Discrimination against Women also welcomed the efforts of Montenegro to improve its institutional and policy framework to eliminate

discrimination against women.[59] It noted, however, the largely symbolic role of the bodies created, such as the National Council for Gender Equality, the Parliamentary Committee for Gender Equality and the councils and offices for gender equality that had been established in a significant number of municipalities, their insufficient funding and the limited impact of the previous action plan for gender equality (2013-2017).[60]

60. The Committee on the Elimination of Racial Discrimination recommended that Montenegro raise awareness about the double discrimination against women of Roma, Ashkali and Egyptian origin in education, employment and health care, and take specific measures to address it.[61]

61. While welcoming the adoption of the Law on Protection from Domestic Violence and the amendments to the Criminal Code to improve protection measures for victims of domestic violence, four Committees were concerned at their lack of effective implementation in practice, at the mild sentences given to perpetrators and at the inadequate protection and access to justice for victims. They recommended that Montenegro ensure that cases of domestic violence were thoroughly investigated, the perpetrators brought to justice and the victims adequately protected and compensated.[62] The Committee on the Elimination of Discrimination against Women also recommended that Montenegro ensure the availability of a sufficient number of adequate shelters and that victims received counselling, rehabilitation and support services.[63] UNESCO stated that Montenegro should be encouraged to further its efforts on awareness-raising and education against gender-based violence.[64]

62. The Committee on the Elimination of Discrimination against Women recommended that Montenegro amend the relevant laws to specifically criminalize marital rape and adopt the proposed changes to article 204 (2) of the Criminal Code to ensure that the main element of the definition of rape was lack of voluntary consent by the victim.[65]

2. Children[66]

63. The United Nations country team observed that Montenegro had made significant efforts to harmonize its child-related legal framework with United Nations and European standards and had achieved important results. However, it noted that continuous harmonization and effective implementation were necessary, and recommended that Montenegro further strengthen the Council on Child Rights and increase the capacities of governmental bodies, Parliament, the Protector of Human Rights and Freedoms, civil society and academia to improve the promotion and protection of children's rights.[67]

64. As regards the relevant recommendation from the second cycle of the universal periodic review,[68] UNHCR noted that, in 2015, Montenegro had amended the Law on Non-contentious Proceedings to introduce a court procedure for establishing the date and place of birth of persons born outside of the health system, therefore significantly improving late birth registration. However, UNHCR observed that there were still challenges in birth registration, particularly for children who were abandoned by their mothers, since the Ministry of the Interior refused to register a child if the requested data on the mother were unknown.[69] The Human Rights Committee recommended that Montenegro improve birth registration, particularly among Roma, Ashkali and Egyptian children, through awareness-raising programmes aimed at changing mindsets regarding the need to register births.[70]

65. The Committee on the Rights of Persons with Disabilities noted with concern that discrimination and social exclusion of children with disabilities was prevalent and that children with disabilities were frequently institutionalized. It recommended that Montenegro allocate the necessary resources to eliminate discrimination and the exclusion of children with disabilities, and take swift measures aimed at the deinstitutionalization of children and ensuring that they had access to all the necessary services in the context of community care.[71]

3. Persons with disabilities[72]

66. The Committee on the Rights of Persons with Disabilities commended Montenegro for adopting a number of legislative and policy measures in the field of disability.[73]

However, it was concerned that progress to bring the legislation into full compliance with the Convention on the Rights of Person with Disabilities had been largely insufficient. It recommended that Montenegro continue its efforts to regularly review existing and draft legislation in consultation with persons with disabilities and their representative organizations, and ensure that disability-impact assessments formed an integral part of the legislative process.[113]

67. The same Committee noted with concern that certain anti-discrimination provisions were discriminatory within themselves, as they only applied to discrimination based on certain types of impairments. Furthermore, it was concerned about the lack of equal protection of persons with disabilities who could be subjected to intersectional discrimination, such as persons with disabilities who were members of different ethnic groups, refugees, asylum seekers or internally displaced persons.[114]

68. The same Committee urged Montenegro to replace the current guardianship and substitute decision-making regime with a system of supported decision-making that fully respected the autonomy, integrity, dignity, will and preferences of the person.[115]

69. The Committee recommended that Montenegro adopt an adequately resourced, comprehensive accessibility strategy, and promote universal design for all buildings, public services and public transport.[116]

70. The United Nations country team noted the progress made by Montenegro regarding the rights of persons with disabilities, but observed that they remained marginalized, especially in the area of employment.[117]

4. Minorities and indigenous peoples[118]

71. While welcoming the efforts of Montenegro to address the de facto discrimination against persons of Roma, Ashkali and Egyptian origin, the Human Rights Committee was concerned that they continued to face discrimination in accessing housing, employment, education and social services, and participating in political life.[119] The Committee on the Elimination of Racial Discrimination recommended that Montenegro intensify its efforts to end discrimination against those groups; conduct information campaigns for the general public focused on the prevention of discrimination against them; and organize human rights training for law enforcement officials, judges, teachers, medical staff and social workers.[120]

8. Migrants, refugees, asylum seekers and internally displaced persons[121]

72. Regarding the relevant recommendation from the second cycle of the universal periodic review,[122] UNHCR noted that Montenegro had three times extended the deadline for refugees from the former Yugoslavia to apply for the status of foreigner under the amended Law on Foreigners. However, it observed that, despite the efforts made, out of a total of 12,800 applications, 945 were still pending owing to the difficulty that applicants had in acquiring the necessary documents. Therefore, applicants continued to hold the insecure and ambiguous legal status of either "internally displaced person" or "displaced person".[123] The United Nations country team recommended that Montenegro fully implement the Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons in Montenegro (2017-2019), which defined measures for achieving durable solutions for the remaining internally displaced persons or displaced persons waiting for a decision on their applications.[124]

73. UNHCR observed that, at the end of 2016, there were 11,035 refugees with permanent residence permits and 416 with temporary residence permits who had acquired the status of foreigner.[125] Regarding the relevant recommendation from the second cycle of the universal periodic review,[126] UNCHR and the United Nations country team noted that, under the 2009 Law on Foreigners, refugees who acquired the status of foreigner should have access to all the basic rights, but that, in practice, such access was still partial owing to the inconsistencies in implementing the Law.[127] They also noted that the 2014 Law on Foreigners limited access to the labour market for temporary residents, including refugees, to only seasonal jobs. Consequently, refugees granted temporary residence could not register with the Employment Bureau and, therefore, could not access the national medical services. As a result, they could not fulfil the requirements to qualify for permanent

residence, which included proof of secure income and health care. They recommended that Montenegro enable access to the labour market for refugees from the former Yugoslav who had acquired temporary residence for up to three years as a safeguard until they acquired permanent residence, and define a clear procedure for the transition from temporary to permanent resident.[128]

74. The Committee against Torture remained concerned at reports that the Montenegrin authorities continued to pursue repatriation, voluntary return or resettlement in a third country as the main solutions for displaced persons rather than integration in Montenegro.[129]

6. Stateless persons[130]

75. Regarding the relevant recommendation from the second cycle of the universal periodic review,[131] UNHCR noted that, in 2013, Montenegro had acceded to the 1961 Convention on the Reduction of Statelessness, thus completing accession to both universal and regional instruments on statelessness.[132]

76. UNHCR estimated that some 70 persons remained at risk of statelessness in Montenegro.[133] UNHCR and the United Nations country team stated that Montenegro still lacked a mechanism to identify, register and protect stateless persons, and recommended that it establish a dedicated procedure for those purposes.[134]

Notes

[1] Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Montenegro will be available at www.ohchr.org/EN/Countries/ENACARegion/Pages/MEIndex.aspx.
[2] For relevant recommendations, see A/HRC/23/12, paras. 117.43, 118.1 and 119.1-119.8.
[3] See A/HRC/23/12, para. 119.4 (Costa Rica), 119.5 (Germany) and 119.6 (Austria).
[4] See CCPR/C/MNE/CO/1, para. 4; E/C.12/MNE/CO/1, para. 4; and CEDAW/C/MNE/CO/2, para. 6; also United Nations country team submission for the universal periodic review of Montenegro, p. 5.
[5] See CAT/C/MNE/CO/2, para. 4; E/C.12/MNE/CO/1, para. 3; and CERD/C/MNE/CO/2-3, para. 4.
[6] See E/C.12/MNE/CO/1, para. 4; and CERD/C/MNE/CO/2-3, para. 4; also United Nations country team submission, p. 5.
[7] See A/HRC/23/12, para. 117.43 (Republic of Moldova).
[8] See CAT/C/MNE/CO/2, para. 4; and CEDAW/C/MNE/CO/2, para. 6; also United Nations country team submission, p. 13.
[9] See A/HRC/23/12, paras. 119.1 (Chile) (Indonesia), 119.2 (Turkey) (Guatemala) (Belarus) and 119.3 (Philippines).
[10] See CEDAW/C/MNE/CO/2, para. 60; E/C.12/MNE/CO/1, para. 27; CERD/C/MNE/CO/2-3, para. 17; and CAT/C/MNE/CO/2, para. 26.
[11] See CRPD/C/MNE/CO/1, para. 55.
[12] See www.ohchr.org/EN/HRBodies/UPR/Pages/UPRImplementation.aspx.
[13] Office of the United Nations High Commissioner for Human Rights, *OHCHR Report 2013*, p. 180; and *OHCHR Report 2016*, pp. 79, 83 and 131.
[14] For relevant recommendations, see A/HRC/23/12, paras. 117.1-117.7 and 117.9.
[15] See E/C.12/MNE/CO/1, paras. 5 and 8; CCPR/C/MNE/CO/1, paras. 3 and 7; CAT/C/MNE/CO/2, para. 9; CERD/C/MNE/CO/2-3, para. 10. See also A/HRC/30/38/Add.2, para. 86.
[16] For relevant recommendations, see A/HRC/23/12, paras. 117.19-117.27, 117.33-117.35 and 118.8.
[17] See CEDAW/C/MNE/CO/2, paras. 18-19.
[18] See CAT/C/MNE/CO/2, para. 22; and E/C.12/MNE/CO/1, para. 10.
[19] See CAT/C/MNE/CO/2, para. 23; CCPR/C/MNE/CO/1, para. 8; and CEDAW/C/MNE/CO/2, para. 46.
[20] See CEDAW/C/MNE/CO/2, paras. 46-47.
[21] For relevant recommendations, see A/HRC/23/12, paras. 117.8, 117.36 and 119.12.
[22] See CAT/C/MNE/CO/2, para. 6.
[23] See A/HRC/30/38/Add.2, paras. 27 and 74; and CED/C/MNE/CO/1, paras. 8-9. See also CED/C/MNE/CO/1/Add.1, paras. 1-5.
[24] See CED/C/MNE/CO/1, paras. 24-25. See also CAT/C/MNE/CO/2, para. 7; CED/C/MNE/CO/1/Add.1, paras. 6-11; and CAT/C/MNE/CO/2/Add.1, paras. 1-6.
[25] See CAT/C/MNE/CO/2, para. 14. See also CED/C/MNE/CO/1, para. 19.

[26] See CAT/C/MNE/CO/2, para. 16. See also CCPR/C/MNE/CO/1, para. 12, and CEDAW/C/MNE/CO/2, para. 44.
[27] See CAT/C/MNE/CO/2, para. 17.
[28] See CEDAW/C/MNE/CO/2, para. 45.
[29] See CRPD/C/MNE/CO/1, paras. 28-29.
[30] See CAT/C/MNE/CO/2, para. 23, and CCPR/C/MNE/CO/1, para. 8. See also CEDAW/C/MNE/CO/2, paras. 46-47.
[31] For relevant recommendations, see A/HRC/23/12, paras. 117.52-117.62, 118.11 and 119.13.
[32] United Nations country team submission, pp. 4-5. See also CCPR/C/MNE/CO/1, para. 15, and CAT/C/MNE/CO/2, para. 10.
[33] See CAT/C/MNE/CO/2, para. 8. See also CCPR/C/MNE/CO/1, para. 16.
[34] See CERD/C/MNE/CO/2-3, para. 9. See also CERD/C/MNE/CO/2-3/Add.1, paras. 1-8.
[35] See CED/C/MNE/CO/1/paras. 12-13. See also A/HRC/30/38/Add.2, paras. 21-22.
[36] See A/HRC/30/38/Add.2, paras. 43-44 and 75. See also CED/C/MNE/CO/1, paras. 16-17, CCPR/C/MNE/CO/1, para. 9, CAT/C/MNE/CO/2, para. 13.
[37] See CED/C/MNE/CO/1/para. 17.
[38] See CAT/C/MNE/CO/2, para. 13. See also CCPR/C/MNE/CO/1, para. 6, and CED/C/MNE/CO/1, paras. 32-33.
[39] For relevant recommendations, see A/HRC/23/12, paras. 117.37, 117.63-117.71, 118.12-118.13 and 119.14-119.15.
[40] See CEDAW/C/MNE/CO/2, para. 4.
[41] See CEDAW/C/MNE/CO/2, paras. 28-29. See also CCPR/C/MNE/CO/1, para. 10.
[42] United Nations country team submission, p. 18.
[43] See CRPD/C/MNE/CO/1, paras. 52-53.
[44] See CEDAW/C/MNE/CO/2, para. 14.
[45] See A/HRC/26/30/Add.1, paras. 17, 23 and 77; and CCPR/C/MNE/CO/1, para. 21. See also E/C.12/MNE/CO/1, para. 9; and CAT/C/MNE/CO/2, para. 18.
[46] See A/HRC/26/30/Add.1, paras. 17, 38-43 and 78.
[47] Ibid., paras. 36-37 and 77.
[48] Ibid., paras. 66-68 and 82.
[49] See CED/C/MNE/CO/1, para. 5.
[50] See A/HRC/26/30/Add.1, paras. 58 and 81.
[51] For relevant recommendations, see A/HRC/23/12, paras. 117.46-117.51 and 118.1.
[52] See CCPR/C/MNE/CO/1, para. 14; E/C.12/MNE/CO/1, para. 18; and CEDAW/C/MNE/CO/2, para. 24.
[53] See CCPR/C/MNE/CO/1, para. 14. See also E/C.12/MNE/CO/1, para. 18; CEDAW/C/MNE/CO/2, para. 25; and www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3245221,102734,Montenegro,2015.
[54] See CEDAW/C/MNE/CO/2, para. 25.
[55] For relevant recommendations, see A/HRC/23/12, para. 118.7.
[56] See CRPD/C/MNE/CO/1, paras. 42-43.
[57] See CEDAW/C/MNE/CO/2, paras. 20-21; E/C.12/MNE/CO/1, para. 19; and CCPR/C/MNE/CO/1, para. 20.
[58] See CEDAW/C/MNE/CO/2, paras. 48-49.
[59] Ibid., para. 53.
[60] For relevant recommendations, see A/HRC/23/12, paras. 117.29 and 118.6.
[61] See E/C.12/MNE/CO/1, para. 12. See also United Nations country team submission, pp. 18-20.
[62] See CERD/C/MNE/CO/2-3, para. 15.
[63] United Nations country team submission, p. 20.
[64] See CEDAW/C/MNE/CO/2, paras. 32-33. See also United Nations country team submission, pp. 18 and 20; and www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3148588.
[65] See CRPD/C/MNE/CO/1, para. 49. See also E/C.12/MNE/CO/1, para. 12.
[66] See E/C.12/MNE/CO/1, para. 13.
[67] See CCPR/C/MNE/CO/1, para. 19. See also www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3245221.
[68] See E/C.12/MNE/CO/1, para. 20. See also www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3245221,102734,Montenegro,2015.
[69] See E/C.12/MNE/CO/1, para. 15.

[70] See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3257113,102734,Montenegro,2015.
[71] See E/C.12/MNE/CO/1, para. 16.
[72] See CEDAW/C/MNE/CO/2, paras. 36-37.
[73] Ibid., para. 38.
[74] For relevant recommendations, see A/HRC/23/12, paras. 117.10-117.11.
[75] See E/C.12/MNE/CO/1, para. 21.
[76] Ibid., para. 22.
[77] See CERD/C/MNE/CO/2-3, para. 13. See also CCPR/C/MNE/CO/1, para. 18, and E/C.12/MNE/CO/1, para. 22.
[78] See A/HRC/23/12, para. 117.96 (Austria).
[79] UNHCR submission to the universal periodic review of Montenegro, p. 3.
[80] United Nations country team submission, p. 6. See also UNHCR submission, p. 4.
[81] For relevant recommendations, see A/HRC/23/12, para. 118.3.
[82] See E/C.12/MNE/CO/1, para. 23. See also CEDAW/C/MNE/CO/2, para. 35.
[83] See CEDAW/C/MNE/CO/2, para. 35.
[84] Ibid., para. 31.
[85] Ibid., para. 19. See also E/C.12/MNE/CO/1, para. 24.
[86] See E/C.12/MNE/CO/1, para. 23. See also CRPD/C/MNE/CO/1, paras. 36-37.
[87] For relevant recommendations, see A/HRC/23/12, paras. 117.77, 117.87 and 118.3-118.4.
[88] UNESCO submission to the universal periodic review of Montenegro, pp. 4-5.
[89] United Nations country team submission, pp. 11-12.
[90] UNESCO submission, pp. 5-6. See also United Nations country team submission, p. 12.
[91] See E/C.12/MNE/CO/1, para. 25, and CERD/C/MNE/CO/2-3, para. 14. See also CEDAW/C/MNE/CO/2, paras. 30-31, and CERD/C/MNE/CO/2-3/Add.1, paras. 45-48.
[92] UNESCO submission, p. 5.
[93] See CEDAW/C/MNE/CO/2, para. 31.
[94] United Nations country team submission, p. 11.
[95] See CRPD/C/MNE/CO/1, para. 45. See also E/C.12/MNE/CO/1, para. 25, and UNESCO submission, p. 6.
[96] For relevant recommendations, see A/HRC/23/12, paras. 117.28-117.31, 117.38-117.42, 117.44-117.45 and 118.6-118.7.
[97] See CEDAW/C/MNE/CO/2, paras. 4 and 10-11.
[98] Ibid., para. 5.
[99] Ibid., para. 12.
[100] See CERD/C/MNE/CO/2-3, para. 15. See also CEDAW/C/MNE/CO/2, paras. 42-43.
[101] See CEDAW/C/MNE/CO/2, paras. 22-23, CCPR/C/MNE/CO/1, para. 11, CAT/C/MNE/CO/2, para. 19, and E/C.12/MNE/CO/1, para. 17. See also United Nations country team submission, p. 15.
[102] See CEDAW/C/MNE/CO/2, para. 23.
[103] UNESCO submission, p. 6.
[104] See CEDAW/C/MNE/CO/2, para. 23.
[105] For relevant recommendations, see A/HRC/23/12, paras. 117.12-117.18, 117.32, 118.2-118.5, 118.10 and 119.9-119.11.
[106] United Nations country team submission, pp. 8-9.
[107] See A/HRC/23/12, para. 119.11 (Brazil).
[108] UNHCR submission, pp. 4-5; also United Nations country team submission, p. 7.
[109] See CCPR/C/MNE/CO/1, para. 17.
[110] Ibid., paras. 14-15.
[111] For relevant recommendations, see A/HRC/23/12, paras. 117.24 and 117.72-117.77.
[112] See CRPD/C/MNE/CO/1, para. 4.
[113] Ibid., paras. 6-7.
[114] Ibid., para. 10.
[115] Ibid., para. 25.
[116] See CRPD/C/MNE/CO/1, para. 19.
[117] United Nations country team submission, p. 11.
[118] For relevant recommendations, see A/HRC/23/12, paras. 117.24-117.25 and 117.78-117.88.
[119] See CCPR/C/MNE/CO/1, para. 19. See also CERD/C/MNE/CO/2-3, para. 11.
[120] See CERD/C/MNE/CO/2-3, para. 11.
[121] For relevant recommendations, see A/HRC/23/12, paras. 117.24-117.25, 117.27 and 117.89-117.96.
[122] See A/HRC/23/12, para. 117.91 (Slovakia).
[123] UNHCR submission, pp. 1-2. See also CCPR/C/MNE/CO/1, para. 18, CERD/C/MNE/CO/2-3, para. 12, and CERD/C/MNE/CO/2-3/Add.1, paras. 20-37.

[124] United Nations country team submission, p. 8.
[125] UNHCR submission, p. 1.
[126] See A/HRC/23/12, para. 117.27 (Canada).
[127] UNHCR submission, pp. 3-4, and United Nations country team submission, p. 6.
[128] United Nations country team submission, p. 7; also UNHCR submission, pp. 3-4.
[129] See CAT/C/MNE/CO/2, para. 12.
[130] For relevant recommendations, see A/HRC/23/12, paras. 119.5-119.6.
[131] Ibid., para. 119.5 (Germany).
[132] UNHCR submission, pp. 1 and 3.
[133] Ibid., p. 2.
[134] Ibid., pp. 2 and 6, and United Nations country team submission, p. 5.